



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement under the Comprehensive Environmental Response, Compensation, and Liability Act and Chapter 11 of the United States Bankruptcy Code

On April 13, 2017, the Department of Justice lodged a proposed Settlement Agreement with the United States Bankruptcy Court for the District of Maine in In re: Lincoln Paper and Tissue, LLC, No. 15-10715 PGC. The agreement was entered into by the United States, on behalf of the United States Environmental Protection Agency (“EPA”), the debtor Lincoln Paper and Tissue, LLC (“Debtor”), and the Maine Department of Environmental Protection (“MDEP”).

The agreement relates to liabilities of the Debtor under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 *et seq.* (“CERCLA”), in connection with the 275-acre paper mill owned by the Debtor in Lincoln, Maine (“Facility”). Pursuant to the agreement’s terms, the Debtor has agreed to implement certain removal actions at the Facility, including the removal of drums and containers of hazardous substances and hazardous wastes, the removal of radioactive signs, and the removal of friable asbestos. The Debtor has also agreed to pay EPA the difference between the cost of these removal actions (expected to be about \$250,000) and \$400,000. The Debtor has also agreed that if the estate’s net recoveries in the bankruptcy proceeding (other than insurance recoveries related to environmental claims) exceed \$500,000, the Debtor will pay EPA 25% of the excess, with an overall cap of \$225,000. With respect to insurance proceeds for environmental claims, the Debtor has agreed to pay EPA 50% of any net proceeds over \$400,000, with no cap on the amount. MDEP has agreed that an escrow account of \$50,000, which was set aside by the Debtor earlier in the bankruptcy case for the benefit of any remediation sought by MDEP at the

Facility, will be paid to EPA to help defray EPA's removal costs at the Facility. MDEP has signed the Settlement Agreement due to this aspect of the settlement. The Debtor has also agreed that EPA will have an allowed general unsecured claim in the amount of the removal costs that will be incurred by EPA at the Facility, minus certain cash payments to be made by the Debtor to EPA, with a cap of \$1.5 million.

The United States, on behalf of EPA, has provided the Debtor with a covenant not to sue, under Sections 106 and 107 of CERCLA, with respect to the Facility, as well as a property located adjacent to the Facility (the "Excluded Area"), as well as those areas of the Penobscot River where hazardous substances from the Facility or the Excluded Area have come to be located. The covenant also applies to the Debtor's successors and assigns, former and current officers, directors, employees, and trustees, but only to the extent that the alleged liability of the successor or assign, officer, director, employee, or trustee is based solely on his, her or its status and on his, her or its capacity as a successor or assign, officer, director, employee or trustee of the Debtor.

The publication of this notice opens a period for public comment on the Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to In re: Lincoln Paper and Tissue, LLC, No. 15-10715 PGC, D.J. Ref. No. 90-11-3-11537. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov

By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611
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During the public comment period, the Agreement may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the agreement upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$19.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.
Assistant Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division

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